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SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
8th Floor, World Trade Centre, Centre - I, Cuffe Parade,
Mumbai-400 005

F.No. 373/163/B/14-RA / 1265

Date of Issue 07.03.2018

ORDER NO. 88/2018-CUS (SZ)/ASRA/MUMBAI DATED 06.03.2018 OF THE GOVERNMENT OF INDIA PASSED BY SHRI ASHOK KUMAR MEHTA , PRINCIPAL COMMISSIONER & EX-OFFICIO ADDITIONAL SECRETARY TO THE GOVERNMENT OF INDIA, UNDER SECTION 129DD OF THE CUSTOMS ACT, 1962.

Applicant : Shri. Sathackkathullah.

Respondent : Commissioner of Customs, Chennai.

Subject : Revision Application filed, under Section 129DD of the Customs Act, 1962 against the Order-in-Appeal No. C. Cus No. 274/2014 dated 20.02.2014 passed by the Commissioner of Customs (Appeals), Chennai.



ORDER

This revision application has been filed by Shri Sathackkathullah (herein referred to as Applicant) against the order C. Cus. no 274/2014 dated 20.02.2014 passed by the Commissioner of Customs (Appeals), Chennai.

2. Briefly stated facts of the case are that the applicant, an Indian National had arrived at the Chennai International Airport on 30.08.2013. Examination of her baggage resulted in recovery of 8 nos Sony Xperia J Mobiles totally valued at Rs. 72,000/-. As the mobiles were in commercial quantity, the Original Adjudicating Authority, vide its Order in Original 994/2013 Batch B dated 30.08.2013 confiscated the items under Section 111 (d), (l), (m) and (o) of the Customs Act, 1962 and allowed redemption on payment of redemption fine of Rs. 36,000/-. A penalty of Rs. 7,500/- under Section 112 (a) of the Customs Act, 1962 was also imposed on the Applicant. Aggrieved by this order the Applicant filed an appeal with the Commissioner of Customs (Appeals) Chennai. The Commissioner of Customs (Appeals) Chennai, vide his order C.Cus No. 274/2014 dated 20.02.2014 also observed that the goods were in trade quantity and rejected the Appeal of the Applicant.

3. Aggrieved with the above order the Applicant has filed this revision application inter alia on the grounds that.

3.1 The order of the appellate authority is against law, weight of evidence and circumstances and probabilities of the case.

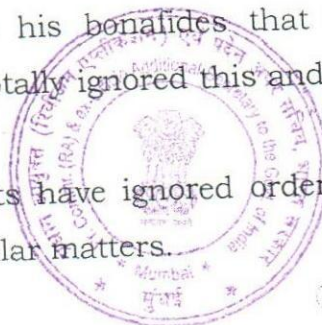
3.2 Both the Respondents failed to see that a true declaration was made by the Applicant.

3.3 There was no concealment or misdeclaration.

3.4 The value of the goods adopted by the lower authorities was on the higher side.

3.5 Both the Respondents failed to see that the Applicant had opted for the Red channel to prove his bonafides that he had dutiable goods. However the officers have totally ignored this and registered a case against the Applicant.

3.6 Both the Respondents have ignored orders of the High Court and Government of India in similar matters.



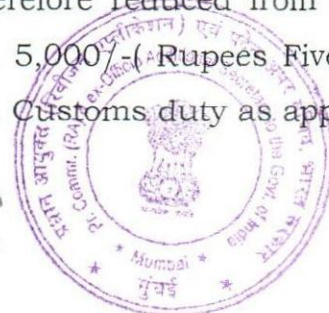
The Revision Applicant prays that the Hon'ble Revision Authority may be pleased to set aside both the lower authorities orders and set aside fine of Rs. 36,000/- and penalty Rs. 7,500/- and thereby render justice.

4. A personal hearing in the case was scheduled to be held on 14.02.2018, the Advocate for the respondent Shri K. Mohammed Ismail in his letter dated 12.02.2018 informed that his clients are unable to send their counsel all the way to Mumbai from Chennai and requested that the personal hearing may be waived and the grounds of the Revision Application may be taken as arguments for this Revision, and decide the cases as per relief sought for in the prayer of the Revision and oblige. Nobody from the department attended the personal hearing.

5. The Government has gone through the facts of the case. The goods that were brought in commercial quantity and do not constitute bonafide baggage. Under the circumstances confiscation of the goods is justified.

6. However, the Applicant was not intercepted while trying to exit the Green Channel. There was no concerted attempt at smuggling these goods into India. The Applicant claims that he had opted for the red channel. Government, also observes that there is no allegation of misdeclaration or concealment and the Applicant claims to have declared the Mobiles which has not been disputed. Under the circumstances Government, holds that while imposing redemption fine and penalty the applicant can be treated with a lenient view.

7. Taking into consideration the foregoing discussion, Government, reduces the redemption fine imposed by the Appellate authority from Rs.36,000/- (Thirty six thousand) to Rs25,000/- (Rupees Twenty Five thousand). Government also observes that the facts of the case justify slight reduction in the penalty imposed. The penalty imposed on the Applicant is therefore reduced from Rs. 7,500/- (Rupees Seven thousand five hundred) to Rs. 5,000/- (Rupees Five Thousand) under section 112(a) of the Customs Act, 1962. Customs duty as applicable shall be paid accordingly.



8. The impugned Order in Appeal stands modified to that extent.
9. Revision application is partly allowed on above terms.
10. So, ordered.

Ashok Kumar Mehta
6/3/18

(ASHOK KUMAR MEHTA)
Principal Commissioner & ex-officio
Additional Secretary to Government of India

ORDER No. 88/2018-CUS (SZ) /ASRA/MUMBAI

DATED 06.03.2018

To,

Shri Sathackkathullah
S/o Syed Ibrahim Mohamed Yunoos,
132/102 Portuguese Church Street,
Seven Wells,
Chennai - 600 001,
Tamil Nadu.

True Copy Attested

Sankarsan Munda

SANKARSAN MUNDA
Asstt. Commissioner of Custom & C. Ex.

Copy to:

1. The Commissioner of Customs, Anna International Airport, Chennai.
2. The Commissioner of Customs (Appeals), Custom House, Rajaji Salai Chennai.
3. Sr. P.S. to AS (RA), Mumbai.
4. Guard File.
5. Spare Copy.

